

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation )  
Against: )**

**Alan Rosen, M.D, )**

**Case No. 800-2017-032415**

**Physician's and Surgeon's )  
Certificate No. A 51388 )**

**Respondent )  
\_\_\_\_\_ )**

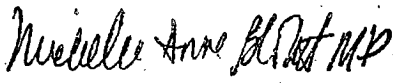
**DECISION**

**The attached Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on November 8, 2017.**

**IT IS SO ORDERED October 9, 2017.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
**Michelle Anne Bholat, M.D., Chair  
Panel B**

1 XAVIER BECERRA  
Attorney General of California  
2 JANE ZACK SIMON  
Supervising Deputy Attorney General  
3 KEITH C. SHAW  
Deputy Attorney General  
4 State Bar No. 227029  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5385  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 800-2017-032415

11 **ALAN ROSEN, M.D.**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR PUBLIC  
REPRIMAND**

12 13802 Centerfield Dr., Suite 300  
Houston, TX 77070-6044

13 **Physician's and Surgeon's Certificate No.**  
14 **A51388**

15 Respondent.

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
17 entitled proceedings that the following matters are true:

18 **PARTIES**

19 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
20 of California (Board). She brought this action solely in her official capacity and is represented in  
21 this matter by Xavier Becerra, Attorney General of the State of California, by Keith C. Shaw,  
22 Deputy Attorney General.

23 2. Respondent Alan Rosen, M.D. (Respondent) enters into this Stipulated Settlement  
24 and Disciplinary Order for Public Reprimand in consultation with his Texas legal counsel,  
25 George K. Samuel, Esq., whose address is: Houston Methodist Hospital, 6565 Fannin St.,  
26 Houston, TX 77030.

27 3. On or about November 9, 1992, the Board issued Physician's and Surgeon's  
28 Certificate No. A51388 to Alan Rosen, M.D. The Physician's and Surgeon's Certificate was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-  
2 032415, and will expire on June 30, 2018, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2017-032415 was filed before the Medical Board of California,  
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
6 and all other statutorily required documents were properly served on Respondent on August 3,  
7 2017. Respondent timely filed his Notice of Defense in response to the Accusation. A copy of  
8 Accusation No. 800-2017-032415 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with Texas legal counsel, and  
11 understands the charges and allegations in Accusation No. 800-2017-032415. Respondent has  
12 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
13 Settlement and Disciplinary Order for Public Reprimand.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
18 documents; the right to reconsideration and court review of an adverse decision; and all other  
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 800-2017-032415.

25 9. Respondent agrees that his Physician's and Surgeon's Certificate is subject to  
26 discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the  
27 Disciplinary Order for Public Reprimand below.

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board. Respondent understands  
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
4 with the Board regarding this stipulation and settlement, without notice to or participation by  
5 Respondent or his Texas legal counsel. By signing the stipulation, Respondent understands and  
6 agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time  
7 the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision  
8 and Order, the Stipulated Settlement and Disciplinary Order for Public Reprimand shall be of no  
9 force or effect, except for this paragraph, it shall be inadmissible in any legal action between the  
10 parties, and the Board shall not be disqualified from further action by having considered this  
11 matter.

12 11. The parties understand and agree that Portable Document Format (PDF) and facsimile  
13 copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including PDF  
14 and facsimile signatures thereto, shall have the same force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties agree that  
16 the Board may, without further notice or formal proceeding, issue and enter the following  
17 Disciplinary Order:

18 DISCIPLINARY ORDER

19 **A. PUBLIC REPRIMAND**

20 IT IS HEREBY ORDERED that Respondent Alan Rosen, M.D., Physician's and Surgeon's  
21 Certificate No. A51388, shall be and hereby is publicly reprimanded pursuant to California  
22 Business and Professions Code section 2227, subdivision (a)(4). This public reprimand is issued  
23 in connection with the Texas Medical Board's Agreed Order, issued to resolve allegations that  
24 Respondent pre-signed prescriptions while he was in-between practice locations and left the pre-  
25 signed prescriptions with his physician's assistant, who remained at the previous practice, to use  
26 for one week for patients that ran out of medication. Based on these findings, Respondent was  
27 required to take and pass a Medical Jurisprudence Examination and complete at least eight (8)  
28

1 hours of Continuing Medical Education courses in the topic of risk management, as set forth in  
2 Accusation No. 800-2017-032415.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public  
5 Reprimand. I understand the stipulation and the effect it will have on my Physician's and  
6 Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order for Public  
7 Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and  
8 Order of the Medical Board of California.

9  
10 DATED: 8-16-2017



11 ALAN ROSEN, M.D.  
12 Respondent

13 I have read and fully discussed with Respondent Alan Rosen, M.D. the terms and  
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order  
15 for Public Reprimand. I approve its form and content.

16 DATED: 8/23/2017



17 GEORGE K. SAMUEL, ESQ.  
18 Texas Legal Counsel for Respondent

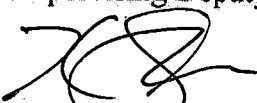
19 ENDORSEMENT

20 The foregoing Stipulated Settlement and Disciplinary Order for Public Reprimand is hereby  
21 respectfully submitted for consideration by the Medical Board of California.

22 Dated: 8/23/2017

23 Respectfully submitted,

24 XAVIER BECERRA  
25 Attorney General of California  
26 JANE ZACK SIMON  
27 Supervising Deputy Attorney General



28 KEITH C. SHAW  
Deputy Attorney General  
Attorneys for Complainant

**Exhibit A**

**Accusation No. 800-2017-032415**

XAVIER BECERRA  
Attorney General of California  
JANE ZACK SIMON  
Supervising Deputy Attorney General  
KEITH C. SHAW  
Deputy Attorney General  
State Bar No. 227029  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
Telephone: (415) 703-5385  
Facsimile: (415) 703-5480  
*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2017-032415

**Alan Rosen, M.D.**

**A C C U S A T I O N**

13802 Centerfield Dr., Ste. 300  
Houston, TX 77070-6044

**Physician's and Surgeon's Certificate  
No. A 51388,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California (Board).

2. On or about November 9, 1992, the Medical Board issued Physician's and Surgeon's Certificate Number A 51388 to Alan Rosen, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2018, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction, or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter, shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state.

C. Section 141 of the Code provides:

“(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

“(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country.”

**CAUSE FOR DISCIPLINE**

**(Discipline, Restriction, or Limitation Imposed by Another State)**

4. On March 3, 2016, the Texas Medical Board (Texas Board) issued an Agreed Order (Order) regarding Respondent's license to practice medicine in the State of Texas. The Order contains specific factual findings that Respondent, an orthopedic hand surgeon, admitted that he pre-signed prescriptions while he was in-between practice locations. He left the pre-signed prescriptions with his physician's assistant (P.A.), who remained at the previous practice, to use for one week for patients that ran out of medication. Respondent indicated that he left the prescriptions with his P.A. because he did not know how long he would be without an office and



1 did not want to leave patients without care. A true and correct copy of the Order issued by the  
2 Texas Board is attached as Exhibit A.

3 5. Respondent's license to practice medicine in the State of Texas is subject to the  
4 following terms:

- 5 a. Respondent shall take and pass with a score of 75 or above the Medical  
6 Jurisprudence Examination. Respondent is allowed three (3) attempts to  
7 successfully pass the examination. Respondent's failure to take and pass the  
8 examination shall result in the immediate suspension of his Texas medical  
9 license;
- 10 b. Respondent shall enroll in and successfully complete at least eight (8) hours of  
11 CME in the topic of risk management;
- 12 c. The Order shall automatically terminate upon Respondent's submission of  
13 sufficient evidence that he has successfully completed the requirements  
14 contained in the Order.<sup>1</sup>

15 6. Respondent's conduct and the action of the Texas Board, as set forth in paragraphs 4  
16 and 5 above, constitute cause for discipline pursuant to sections 2305 and/or 141 of the Code.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board issue a decision:

- 20 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 51388,  
21 issued to Alan Rosen, M.D.;
- 22 2. Revoking, suspending or denying approval of Alan Rosen, M.D.'s authority to  
23 supervise physician assistants and advanced practice nurses;
- 24 3. Ordering Alan Rosen, M.D., if placed on probation, to pay the Board the costs of  
25 probation monitoring; and
- 26

27 <sup>1</sup> On May 18, 2017, the Order was terminated as Respondent successfully completed all  
28 requirements.

1           4.     Taking such other and further action as deemed necessary and proper.

2  
3     DATED:     August 3, 2017

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
*Complainant*

4  
5  
6  
7     SF2017203751  
8     41798981.doc

# EXHIBIT A

LICENSE NO. K-3843

IN THE MATTER OF  
THE LICENSE OF  
ALAN ROSEN, M.D.

BEFORE THE  
  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 3 day of March, 2016, came on to be heard before the Texas Medical Board (the Board), duly in session, the matter of the license of Alan Rosen, M.D., (Respondent).

On August 30, 2016, Respondent appeared in person, with counsel, Oscar De La Rosa, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. The Board's representatives were Paulette Southard, a member of the Board, and Hari Reddy, D.O., a member of a District Review Committee, (Panel). Heather R. E. Pierce represented Board staff.

BOARD CHARGES

Board Staff charged that Respondent pre-signed his signed his blank official prescription forms with his Texas Department of Public Safety (DPS) Controlled Substance Registration number and that he failed to respond to a request from the Board for a narrative response.

BOARD HISTORY

Respondent has not previously received a disciplinary order from the Board. Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings and Conclusions of Law and enters this Agreed Order.

FINDINGS

The Board finds the following:

1. General Findings:
  - a. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right

to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the Act) or the Rules of the Board.

- b. Respondent currently holds Texas Medical License No. K-3843. Respondent was originally issued this license to practice medicine in Texas on September 20, 1997. Respondent is also licensed to practice in California.
- c. Respondent is primarily engaged in the practice of Orthopedic Surgery. Respondent is board certified by the American Board of Orthopedic Surgery, a member of the American Board of Medical Specialties.
- d. Respondent is 55 years of age.

2. Specific Panel Findings:

- a. Respondent admitted that he pre-signed the prescriptions when he was in-between practice locations. He left the pre-signed prescriptions with his Physician Assistant (PA), who stayed at the previous practice, to use for one week for his patients that ran out of medication.
- b. Respondent indicated that the pre-signed prescriptions were kept locked up and only his PA had access to the forms. Respondent pre-signed the prescriptions because he was undergoing the onboarding process at Houston Methodist and he did not know how long he would be without an office and did not want to leave his patients without care.

3. Mitigating Factors:

In determining the appropriate sanctions in this matter, the Panel considered the following mitigating factors:

- a. Respondent has no history with the Board and has practiced over 20 years as an orthopedic hand surgeon.
- b. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent neither admits nor denies the information given above. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

### CONCLUSIONS OF LAW

Based on the above Findings, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.
2. Section 164.051(a)(1) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's commission of an act prohibited under Section 164.052 of the Act.
3. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare, as further defined by Board Rule 190.8(1)(C), failure to use proper diligence in one's professional practice.
4. Section 164.052(a)(5) of the Act authorizes the Board to take disciplinary action against Respondent based upon Respondent's unprofessional or dishonorable conduct that is likely to deceive or defraud the public or injure the public.
5. Section 164.053(a)(1) of the Act authorize the Board to take disciplinary action against Respondent based on Respondent's commission of an act that violates a law of this state that is connected with Respondent's practice of medicine specifically: TAC §13.185(b)(2) Prohibiting a practitioner from pre-signing a prescription form for a controlled substance.
6. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule.
7. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.
8. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

### ORDER

Based on the above Findings and Conclusions of Law, the Board ORDERS that Respondent shall be subject to the following terms and conditions:

1. Within one year following the date of the entry of this Order, Respondent shall take and pass with a score of 75 or above the Medical Jurisprudence Examination (JP Exam)

given by the Texas Medical Board. Respondent is allowed three attempts to successfully pass this examination.

Respondent's failure to take and pass the JP Exam within three attempts within one year following the date of the entry of this Order shall constitute a violation of this Agreed Order. After a committee of the Board or a panel of Board representatives (Board Representatives), has considered the information related to Respondent's violation of this provision and has determined that Respondent has not fulfilled the requirements of this provision, Respondent's medical license shall be **IMMEDIATELY SUSPENDED** pursuant to correspondence to Respondent from the Executive Director or Secretary-Treasurer of the Board indicating that Board Representatives have considered the information related to Respondent's violation of this provision and have determined that Respondent has not fulfilled the requirements of this provision. Although Respondent shall be invited to provide information or testimony to the Board Representatives, Respondent specifically waives any administrative due process under the Medical Practice Act, or the Administrative Procedure Act, for the Board Representatives to consider this information. **THIS SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING AT THE STATE OFFICE OF ADMINISTRATIVE HEARINGS OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE MEDICAL PRACTICE ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS AND ALL RIGHTS OF APPEAL.** Respondent shall be notified of any suspension by certified mail, return receipt requested to Respondent's last known address on file with the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent takes and passes the JP Exam and subsequently appears before the Board in person and provides sufficient evidence which, in the discretion of the Board, is adequate to show that Respondent possesses the skills and knowledge to safely practice in Texas and is otherwise physically and mentally competent to resume the practice in this state.

2. Within one year from the date of the entry of this Order, Respondent shall enroll in and successfully complete at least eight hours of continuing medical education (CME) approved for Category I credits by the American Medical Association or American Osteopathic Association in the topic of risk management. The CME shall be approved in writing in advance by the Executive Director or their designee. To obtain approval for the course, Respondent shall

submit in writing to the Compliance Department information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Compliance Department on or before the expiration of the time limit set forth for completion of the course. The CME requirements set forth in this paragraph shall be in addition to all other CME required for licensure maintenance.

3. At all times while Respondent is under the terms of this Order, Respondent shall give a copy of this Order to all hospitals, nursing homes, treatment facilities, and other health care entities where Respondent has privileges, has pending an application for privileges, applies for privileges, or otherwise practices. Within 30 days of being first contacted by the Compliance Division of the Board following entry of this Order, Respondent shall provide to the Compliance Division of the Board documentation, including proof of delivery, that the Order was delivered to all such facilities.

4. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

5. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

6. Respondent shall inform the Board in writing of any change of Respondent's office or mailing address within 10 days of the address change. This information shall be submitted to the Registration Department and the Compliance Department of the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that 10 days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 45-day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).



7. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, or to injure the public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

8. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

9. This Order shall automatically terminate upon Respondent's submission of sufficient evidence to the Compliance Division of the Board that Respondent successfully completed the requirements ordered in Ordering Paragraph Nos. 1, 2, and 3.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

(SIGNATURE PAGES FOLLOW)

I, ALAN ROSEN, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 12-15, 2016.

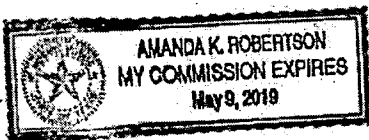


ALAN ROSEN, M.D.  
Respondent

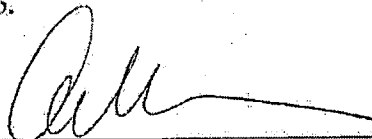
STATE OF Texas  
COUNTY OF Harris

§  
§  
§

SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 15 day of December, 2016.



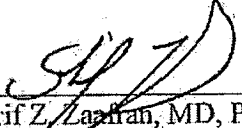
(Notary Seal)



Signature of Notary Public

SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this

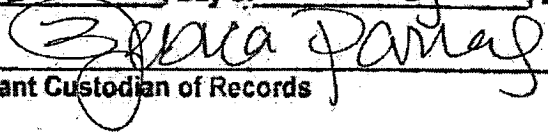
3 day of March, 2016.

  
\_\_\_\_\_  
Sherif Z. Zafran, MD, President  
Texas Medical Board

STATE OF TEXAS  
COUNTY OF TRAVIS

I, Jessica Parras certify that I am an official  
assistant custodian of records for the Texas Medical Board  
and that this is a true and correct Copy of the original, as it  
appears on the file in this office.

Witness my official hand and seal of the BOARD.

This 12th Day of May, 20 17  
  
\_\_\_\_\_  
Assistant Custodian of Records